

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ANTHONY C. QUARLESS,

Plaintiff,

- against-

BROOKLYN BOTANIC GARDEN CORPORATION;
SCOT D. MEDBURY, as President and Chief
Executive Officer; PATRICK CULLINA, as former
Vice President of Horticulture and Facilities; FRANK
MONTEZ, as former Vice President of Facilities,
Planning, Construction and Management; and
ROCHELLE CABINESS, as Director of Human
Resources, each being sued individually and in their
official capacities as employees of defendant
BROOKLYN BOTANIC GARDEN CORPORATION,

Defendants.

Civil Case No.
11 Civ. 5684 (CBA)(RER)

ANSWER

Defendants, by and through their attorneys, Clifton Budd & DeMaria, LLP,
submit their answer to Plaintiff's Complaint as follows:

INTRODUCTION

Defendants admit that Plaintiff purports to bring this claim for discrimination, but
except as so admitted, deny the remaining allegations contained in this paragraph.

JURISDICTION AND VENUE

1. Admit this Court has jurisdiction over this controversy, but except as so
admitted, deny the remaining allegations contained in paragraph 1 of the Complaint.
2. Admit that venue is appropriate in this Court, but except as so admitted,
deny the remaining allegations contained in paragraph 2 of the Complaint.

3. Admit that the Court has pendent jurisdiction over Plaintiff's State law claims, but except as so admitted, deny the remaining allegations contained in paragraph 3 of the Complaint.

PROCEDURAL REQUIREMENTS

4. Deny the allegations contained in paragraph 4 of the Complaint.

5. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Complaint.

PLAINTIFF

6. Admit the allegations contained in paragraph 6 of the Complaint.

DEFENDANTS

7. Admit the allegations contained in paragraph 7 of the Complaint.

8. Admit the allegations contained in paragraph 8 of the Complaint.

BACKGROUND

9. Admit the allegations contained in paragraph 9 of the Complaint.

10. Admit the allegations contained in paragraph 10 of the Complaint.

11. Admit the allegations contained in paragraph 11 of the Complaint.

12. Deny the allegations contained in paragraph 12 of the Complaint.

13. Deny the allegations contained in paragraph 13 of the Complaint.

14. Deny the allegations contained in paragraph 14 of the Complaint.

15. Deny the allegations contained in paragraph 15 of the Complaint.

16. Deny the allegations contained in paragraph 16 of the Complaint.

17. Deny the allegations contained in paragraph 17 of the Complaint.

18. Deny the allegations contained in paragraph 18 of the Complaint.

19. Deny the allegations contained in paragraph 19 of the Complaint.
20. Deny the allegations contained in paragraph 20 of the Complaint.
21. Deny the allegations contained in paragraph 21 of the Complaint.
22. Deny the allegations contained in paragraph 22 of the Complaint.
23. Deny the allegations contained in paragraph 23 of the Complaint.
24. Deny the allegations contained in paragraph 24 of the Complaint.
25. Deny the allegations contained in paragraph 25 of the Complaint.
26. Deny the allegations contained in paragraph 26 of the Complaint.
27. Deny the allegations contained in paragraph 27 of the Complaint.
28. Deny the allegations contained in paragraph 28 of the Complaint.
29. Deny the allegations contained in paragraph 29 of the Complaint.
30. Deny the allegations contained in paragraph 30 of the Complaint.
31. Admit that Mr. Faraino was not disciplined for not allegedly displaying his

ID badge, but except as so admitted, deny the remaining allegations contained in paragraph 31 of the Complaint.

32. Deny the allegations contained in paragraph 32 of the Complaint.
33. Deny the allegations contained in paragraph 33 of the Complaint.
34. Deny the allegations contained in paragraph 34 of the Complaint.
35. Deny the allegations contained in paragraph 35 of the Complaint.
36. Deny the allegations contained in paragraph 36 of the Complaint.
37. Deny the allegations contained in paragraph 37 of the Complaint.
38. Deny the allegations contained in paragraph 38 of the Complaint.
39. Deny the allegations contained in paragraph 39 of the Complaint.

40. Deny the allegations contained in paragraph 40 of the Complaint.

41. Deny the allegations contained in paragraph 41 of the Complaint.

42. Admit that Engram was terminated from his employment at BBG, but except as so admitted, deny the remaining allegations contained in paragraph 42 of the Complaint.

43. Admit that Plaintiff terminated Rogers employment, but except as so admitted, deny the remaining allegations contained in paragraph 43 of the Complaint.

44. Deny the allegations contained in paragraph 44 of the Complaint.

45. Deny the allegations contained in paragraph 45 of the Complaint.

46. Deny the allegations contained in paragraph 46 of the Complaint.

47. Deny the allegations contained in paragraph 47 of the Complaint.

48. Deny the allegations contained in paragraph 48 of the Complaint.

49. Deny the allegations contained in paragraph 49 of the Complaint.

50. Deny the allegations contained in paragraph 50 of the Complaint.

51. Deny the allegations contained in paragraph 51 of the Complaint.

52. Deny the allegations contained in paragraph 52 of the Complaint.

53. Deny the allegations contained in paragraph 53 of the Complaint.

54. Deny the allegations contained in paragraph 54 of the Complaint.

55. Deny the allegations contained in paragraph 55 of the Complaint.

56. Deny the allegations contained in paragraph 56 of the Complaint.

57. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 57 of the Complaint.

58. Deny the allegations contained in paragraph 58 of the Complaint.

59. Admit the allegations contained in paragraph 59 of the Complaint.

60. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 60 of the Complaint.

61. Admit that BROOKLYN BOTANIC GARDEN (“BBG”) employees received a raise, but except as so admitted, deny the remaining allegations contained in paragraph 61 of the Complaint.

62. Deny the allegations contained in paragraph 62 of the Complaint.

63. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 63 of the Complaint.

64. Deny the allegations contained in paragraph 64 of the Complaint.

65. Deny the allegations contained in paragraph 65 of the Complaint.

66. Deny the allegations contained in paragraph 66 of the Complaint.

67. Deny the allegations contained in paragraph 67 of the Complaint.

68. Admit that BBG investigated an incident regarding Arias, but except as so admitted, deny the remaining allegations contained in paragraph 68 of the Complaint.

69. Deny the allegations contained in paragraph 69 of the Complaint.

70. Deny the allegations contained in paragraph 70 of the Complaint.

71. Deny the allegations contained in paragraph 71 of the Complaint.

72. Deny the allegations contained in paragraph 72 of the Complaint.

73. Deny the allegations contained in paragraph 73 of the Complaint.

74. Deny the allegations contained in paragraph 74 of the Complaint.

75. Deny the allegations contained in paragraph 75 of the Complaint.

76. Deny the allegations contained in paragraph 76 of the Complaint.

77. Deny the allegations contained in paragraph 77 of the Complaint.

78. Deny the allegations contained in paragraph 78 of the Complaint.

79. Deny the allegations contained in paragraph 79 of the Complaint.

80. Deny the allegations contained in paragraph 80 of the Complaint.

81. Deny the allegations contained in paragraph 81 of the Complaint.

82. Deny the allegations contained in paragraph 82 of the Complaint.

83. Admit that BBG instituted a policy prohibiting firearms at BBG, but except as so admitted, deny the remaining allegations contained in paragraph 83 of the Complaint.

84. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 84 of the Complaint.

85. Admit Plaintiff requested his timecards, but except as so admitted, deny the allegations contained in paragraph 85 of the Complaint.

86. Deny the allegations contained in paragraph 86 of the Complaint.

87. Deny the allegations contained in paragraph 87 of the Complaint.

88. Admit that BBG promoted Curtis, but except as so admitted, deny the remaining allegations contained in paragraph 88 of the Complaint.

89. Deny the allegations contained in paragraph 89 of the Complaint.

90. Deny the allegations contained in paragraph 90 of the Complaint.

91. Deny the allegations contained in paragraph 91 of the Complaint.

92. Deny the allegations contained in paragraph 92 of the Complaint.

93. Deny the allegations contained in paragraph 93 of the Complaint.

94. Deny the allegations contained in paragraph 94 of the Complaint.

95. Deny the allegations contained in paragraph 95 of the Complaint.

96. Deny the allegations contained in paragraph 96 of the Complaint.

97. Deny the allegations contained in paragraph 97 of the Complaint.

98. Deny the allegations contained in paragraph 98 of the Complaint.

99. Deny the allegations contained in paragraph 99 of the Complaint.

100. Deny the allegations contained in paragraph 100 of the Complaint.

101. Deny the allegations contained in paragraph 101 of the Complaint.

102. Deny the allegations contained in paragraph 102 of the Complaint.

103. Deny the allegations contained in paragraph 103 of the Complaint.

104. Admit that Security Officers' terms and conditions of employment are governed by a collective bargaining agreement, but except as so admitted, deny the remaining allegations contained in paragraph 104 of the Complaint.

105. Deny the allegations contained in paragraph 105 of the Complaint.

106. Deny the allegations contained in paragraph 106 of the Complaint.

107. Admit that a grievance was filed, but except as so admitted, deny the remaining allegations contained in paragraph 107 of the Complaint.

108. Deny the allegations contained in paragraph 108 of the Complaint.

109. Deny the allegations contained in paragraph 109 of the Complaint.

110. Admit that the security officers met with respect to complaints about, *inter alia*, Plaintiff, but except as so admitted, deny the remaining allegations contained in paragraph 110 of the Complaint.

111. Deny the allegations contained in paragraph 111 of the Complaint.

112. Deny the allegations contained in paragraph 112 of the Complaint.

113. Deny the allegations contained in paragraph 113 of the Complaint.

114. Deny the allegations contained in paragraph 114 of the Complaint.

115. Deny the allegations contained in paragraph 115 of the Complaint.

116. Deny the allegations contained in paragraph 116 of the Complaint.

117. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 117 of the Complaint.

118. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 118 of the Complaint.

119. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 119 of the Complaint.

120. Deny the allegations contained in paragraph 120 of the Complaint.

121. Deny the allegations contained in paragraph 121 of the Complaint.

122. Deny the allegations contained in paragraph 122 of the Complaint.

123. Deny the allegations contained in paragraph 123 of the Complaint.

124. Deny the allegations contained in paragraph 124 of the Complaint.

125. Deny the allegations contained in paragraph 125 of the Complaint.

126. Admit that Plaintiff received his annual evaluation, but except as so admitted, deny the remaining allegations contained in paragraph 126 of the Complaint.

127. Admit the allegations contained in paragraph 127 of the Complaint.

128. Deny the allegations contained in paragraph 128 of the Complaint

129. Deny the allegations contained in paragraph 129 of the Complaint

130. Deny the allegations contained in paragraph 130 of the Complaint

131. Deny the allegations contained in paragraph 131 of the Complaint

132. Deny the allegations contained in paragraph 132 of the Complaint

133. Admit that BBG investigated an incident regarding Kimtroy Henry and subsequently disciplined him, but except as so admitted, deny the remaining allegations contained in paragraph 133 of the Complaint.

134. Admit that BBG investigated an incident regarding Kimtroy Henry and subsequently disciplined him, but except as so admitted, deny the remaining allegations contained in paragraph 133 of the Complaint.

135. Deny the allegations contained in paragraph 135 of the Complaint

136. Deny the allegations contained in paragraph 136 of the Complaint.

137. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 137 of the Complaint.

138. Deny the allegations contained in paragraph 138 of the Complaint.

139. Admit the allegations contained in paragraph 139 of the Complaint.

140. Admit that Plaintiff's employment was terminated as part of a reduction-in-force, but except as so admitted, deny the remaining allegations contained in paragraph 140 of the Complaint.

VIOLATIONS AND CLAIMS ALLEGED

COUNT I RACE DISCRIMINATION IN VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

141. Defendants repeat and re-allege each and every answer contained in paragraphs 1 through 140 as if fully set forth herein.

142. Deny the allegations contained in paragraph 142 of the Complaint.

143. Deny the allegations contained in paragraph 143 of the Complaint.

144. Deny the allegations contained in paragraph 144 of the Complaint.

145. Deny the allegations contained in paragraph 145 of the Complaint.

146. Deny the allegations contained in paragraph 146 of the Complaint.

147. Deny the allegations contained in paragraph 147 of the Complaint.

148. Deny the allegations contained in paragraph 148 of the Complaint.

**COUNT II
RETALIATION
IN VIOLATION OF
TITLE VII OF THE CIVIL RIGHTS ACT OF 1964**

149. Defendants repeat and re-allege each and every answer contained in paragraphs 1 through 148 as if fully set forth herein.

150. Deny the allegations contained in paragraph 150 of the Complaint.

151. Deny the allegations contained in paragraph 151 of the Complaint.

**COUNT III
HOSTILE WORK ENVIRONMENT
IN VIOLATION OF
TITLE VII OF THE CIVIL RIGHTS ACT OF 1964**

152. Defendants repeat and re-allege each and every answer contained in paragraphs 1 through 151 as if fully set forth herein.

153. Deny the allegations contained in paragraph 152 of the Complaint.

154. Deny the allegations contained in paragraph 153 of the Complaint.

**COUNT IV
RACE DISCRIMINATION
IN VIOLATION OF THE CIVIL RIGHTS ACT OF 1866, 42 U.S.C. § 1981**

155. Defendants repeat and re-allege each and every answer contained in paragraphs 1 through 154 as if fully set forth herein.

156. Deny the allegations contained in paragraph 156 of the Complaint.

157. Deny the allegations contained in paragraph 157 of the Complaint.

158. Deny the allegations contained in paragraph 158 of the Complaint.

**COUNT V
RETALIATION
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1866, 42 U.S.C. § 1981**

159. Defendants repeat and re-allege each and every answer contained in paragraphs 1 through 158 as if fully set forth herein.

160. Deny the allegations contained in paragraph 160 of the Complaint.

161. Deny the allegations contained in paragraph 161 of the Complaint.

162. Deny the allegations contained in paragraph 162 of the Complaint.

**COUNT VI
HOSTILE WORK ENVIRONMENT
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1866, 42 U.S.C. § 1981**

163. Defendants repeat and re-allege each and every answer contained in paragraphs 1 through 162 as if fully set forth herein.

164. Deny the allegations contained in paragraph 164 of the Complaint.

165. Deny the allegations contained in paragraph 165 of the Complaint.

166. Deny the allegations contained in paragraph 166 of the Complaint.

**COUNT VII
RACE DISCRIMINATION
IN VIOLATION OF
NEW YORK STATE EXECUTIVE LAW § 296**

167. Defendants repeat and re-allege each and every answer contained in paragraphs 1 through 166 as if fully set forth herein.

168. Deny the allegations contained in paragraph 168 of the Complaint.

169. Deny the allegations contained in paragraph 169 of the Complaint.

170. Deny the allegations contained in paragraph 170 of the Complaint.

171. Deny the allegations contained in paragraph 171 of the Complaint.

**COUNT VIII
RETALIATION
IN VIOLATION OF
NEW YORK STATE EXECUTIVE LAW § 296**

172. Defendants repeat and re-allege each and every answer contained in paragraphs 1 through 171 as if fully set forth herein.

173. Deny the allegations contained in paragraph 173 of the Complaint.

174. Deny the allegations contained in paragraph 174 of the Complaint.

175. Deny the allegations contained in paragraph 175 of the Complaint.

176. Deny the allegations contained in paragraph 176 of the Complaint.

177. Deny the allegations contained in paragraph 177 of the Complaint.

**COUNT IX
HOSTILE WORK ENVIRONMENT
IN VIOLATION OF
NEW YORK STATE EXECUTIVE LAW § 296**

178. Defendants repeat and re-allege each and every answer contained in paragraphs 1 through 177 as if fully set forth herein.

179. Deny the allegations contained in paragraph 179 of the Complaint.

180. Deny the allegations contained in paragraph 180 of the Complaint.

181. Deny the allegations contained in paragraph 181 of the Complaint.

182. Deny the allegations contained in paragraph 182 of the Complaint.

183. Deny the allegations contained in paragraph 183 of the Complaint.

**COUNT X
RACE DISCRIMINATION
IN VIOLATION OF
NEW YORK CITY ADMINISTRATIVE CODE § 8-107**

184. Defendants repeat and re-allege each and every answer contained in paragraphs 1 through 183 as if fully set forth herein.

- 185. Deny the allegations contained in paragraph 185 of the Complaint.
- 186. Deny the allegations contained in paragraph 186 of the Complaint.
- 187. Deny the allegations contained in paragraph 187 of the Complaint.
- 188. Deny the allegations contained in paragraph 188 of the Complaint.

**COUNT XI
RETALIATION
IN VIOLATION OF
NEW YORK CITY ADMINISTRATIVE CODE § 8-107**

189. Defendants repeat and re-allege each and every answer contained in paragraphs 1 through 188 as if fully set forth herein.

- 190. Deny the allegations contained in paragraph 190 of the Complaint.
- 191. Deny the allegations contained in paragraph 191 of the Complaint.
- 192. Deny the allegations contained in paragraph 192 of the Complaint.
- 193. Deny the allegations contained in paragraph 193 of the Complaint.
- 194. Deny the allegations contained in paragraph 194 of the Complaint.

**COUNT XII
HOSTILE WORK ENVIRONMENT
IN VIOLATION OF
NEW YORK CITY ADMINISTRATIVE CODE § 8-107**

195. Defendants repeat and re-allege each and every answer contained in paragraphs 1 through 194 as if fully set forth herein.

- 196. Deny the allegations contained in paragraph 196 of the Complaint.
- 197. Deny the allegations contained in paragraph 197 of the Complaint.
- 198. Deny the allegations contained in paragraph 198 of the Complaint.
- 199. Deny the allegations contained in paragraph 199 of the Complaint.
- 200. Deny the allegations contained in paragraph 200 of the Complaint.

201. Admits that Plaintiff seeks a jury in this matter.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

Plaintiff fails to state a claim for which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

Upon information and belief, Plaintiff is not entitled to either back pay or front pay or any other relief sought because Plaintiff has failed to mitigate his damages.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

There is no evidence that Plaintiff's termination of employment or any other adverse employment action was a pretext for unlawful discrimination and/or retaliation.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims, in whole or in part, are barred by the applicable statute of limitations.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

Defendants are not liable because it exercised reasonable care to prevent and cure any unlawful harassing, discriminatory or retaliatory behavior and the Plaintiff unreasonably failed to take advantage of any protective or corrective opportunities provided by Defendants or to avoid harm otherwise.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

All actions taken by Defendants with regard to Plaintiff were taken for legitimate non-discriminatory, non-retaliatory reasons.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

Plaintiff has failed to plead sufficient facts to set forth a claim for punitive damages against Defendants under the applicable law.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

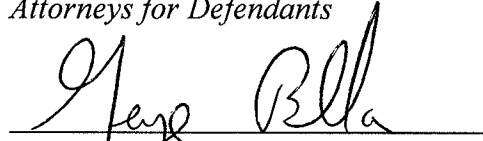
Plaintiff's claim for punitive relief is barred, inasmuch as Plaintiff cannot demonstrate that Defendants showed willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care which would raise the presumption of indifference to consequences.

WHEREFORE, Defendants demand judgment dismissing the Complaint in its entirety, and request that this Court grant Defendants its costs, attorneys' fees and such other and further relief which the Court deems just and proper.

Dated: December 19, 2011
New York, New York

Respectfully submitted,

CLIFTON BUDD & DeMARIA, LLP
Attorneys for Defendants

A handwritten signature in black ink, appearing to read "George Brenlla", is written over a horizontal line.

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